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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,981	02/20/2001	Kazuhiro Kusuda	Q63222	1740

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Washington, DC 20037

EXAMINER
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ENATSKY, AARON L

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 11/18/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/785,981

Applicant(s)

KUSUDA, KAZUHIRO

Examiner

Aaron L Enatsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges receipt of arguments on 8/19/03. The arguments set forth in the response are addressed herein below.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 6-7, 11, 14-15, 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick '509 in view of Wilson et al. '258 (Wilson).

In re claims 1, 6, 17, and 25 Sitrick teaches of a network game system with a plurality of attached game apparatuses interactive in a distributed game (Abstract). The game machines are attached to a central master controller (3:1-3) where the master controller sequences game information received from various game machines providing a coherent single game from a distributed game execution at multiple game machines (5:33-36, 6:15-19, and 7:11-15). The real-time presentation of the game is necessary from the user's input participation affecting the audio-visual works (6:20-32). The master controller also outputs game data to the attached game machines (5:3 1-32). The game could be used in a racing type game (11:45-50). Sitrick does not teach the distributed game system for use with a betting game. Wilson teaches a race wagering system used in simulating a racing game providing audio/visual media (Abstract). Sitrick and

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Wilson are related in that both teach of simulated racing games. One would be motivated to modify Sitrick to include wagering on the race game to further increase the excitement, where the increase in excitement stems from players having a monetary stake associated with an executing race. A further result will increase game owner revenue, associated wagering type games. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitrick to include wagering on competitive race type games to increase player excitement and house revenue.

In re claims 2 and 7, Sitrick teaches a user can create his or her own character and character function, which would allow a user to improve a character's abilities (11:45-50).

In re claims 11, 18, 21-22, and 26 Sitrick in view of Wilson (SIVW) teaches the claim limitations as discussed above, but does not expressly teach a totaling device use to total betting odds. However, as SIVW is involving race wagering, which is often pari-mutuel wagering, a totaling program is usually necessary to calculate constantly varying odds. Wilson teaches providing a totalisator device to provide real-time updated betting pool and odds information. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify SIVW to include the totalisator to accurately calculate the odds and payouts on the race game.

In re claim 14, Sitrick teaches the character improvement as discussed in claims 2 and 7 above.

In re claim 15, Sitrick teaches a master display for displaying individual peer game information (1:37-38) and further teaches a multiplayer race game (11:40-50). Sitrick does not expressly state ranking race results, but it is old and well known in the video game art to rank

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race results, where one would be motivated to provide rankings to know what team/individual is winning for the purpose of placing a favorable wager. Furthermore, displaying peer game information often includes displaying peer rankings. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitrick to display rankings on the master display as peer game information.

In re claims 19-20, Sitrick in view of Wilson teaches claimed the limitations as discussed above, but does not expressly teach game start synchronization through the networked game machines. However, certain games require synchronized starts, such as some race games, and synchronizing network machines is considered well within the capabilities of one of ordinary skill in the art.

In re claims 23-24, Sitrick teaches that a great deal of flexibility exists in choosing distributed system functions and is really a design choice (5:60-67 and 6:15-19). Therefore, have the races executed by the game terminal independently would have been an obvious matter of design choice.

Claim 3-4, 8-9, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick in view of Wilson (SIVW) further in view of Khosla '063. SIVW teaches the claimed limitations as discussed above, but does not teach providing data from a real-time race as game data. Khosla teaches race simulation game that gathers real-time data and provides the data to a computer system to create a concurrent simulation of the live event (Abstract). SIVW and Khosla are related as both teach simulating race games for user entertainment. One would be motivated to modify SIVW to include real-time race data with race simulation as to increase a highly interactive video game with the drama and publicity surround a live event (Khosla,

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Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify SIVW to use real-time race data for formulation of game data to provide increased excitement through publicity of a live event.

In re claim 16, Sitrick teaches the game machines as arcade type machines (Fig. 1A-1C).

Claims 5, 10, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over SIVW further in view of Best '026. SIVW teaches claimed the limitations as discussed above, but does not teach using synthesized speech selected by game players. Best teaches using synthesized speech that is selected by game for integration into a video game (Abstract). Best further teaches that this speech system could be used to announce plays in a simulated game (Abstract), where one of ordinary skill would associate announcing game plays in a ball game similar to announcing race plays/states, thus motivating one to use the announcing system to announce race states. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify SIVW to use synthesized speech to announce race execution states, for a more realistic game atmosphere. In regards to accent or intonation, these speech replication features are disclosed as phonetically distinct and easily distinguishable from each other.

In re claim 12, SIVW in view of Best teaches the claimed limitations as discussed above, but does not teach the speech data stored on the control unit, while the speech and commentator engine are on a separate game machine. Best teaches speech data storage and retrieval device on a main unit (4:1-27), and also portions of a game are executed on a remote game device (Fig. 13). Both SIVW and Best do not teach the speech synthesis or commentator executing on the remote game machines, however, SIVW teaches a distributed audio/visual game where aspects

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of the game are executed and run on both a main controller and remote game machines, wherein the remote game machines have processors and audio output devices (Sitrick, 3:1-19). One would be motivated to modify SIVW in view of Best using the remote game devices to generate the speech synthesis and commentator dialog to utilize distributed computing techniques. Having the speech synthesis and commentator executed on the remote game machines will allow for the use of a smaller processor in a central controller. A smaller central controller processor will reduce overall system cost as a smaller processor cost less, and will lead maximizing overall use of all processing power available in the networked game system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify SIVW in view of Best to have speech data storage and retrieval device on a main controller, while modifying a remote game machine to process and output speech synthesis and commentary received from a main controller to reduce system costs and optimize available processing power.

### ***Response to Arguments***

Applicant's arguments filed 8/19/03 have been fully considered but they are not persuasive.

Applicant initially argues that Examiner countered Applicant's argument from paper no. 6 with an argument that is "plainly in error". Applicant stated that initial arguments from paper no. 6 were directed to the feature of simultaneous execution of machines. While Applicant provided a statement regarding simultaneous execution of machines, no actual argument was made to show prior art lacked this feature. The statement was merely a *statement*, which discussed what Applicant believed the invention entails. Had such arguments directed toward

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this feature been made, Examiner would have acknowledged and answered such arguments.

Examiner's arguments were directed to the first argument provided by Applicant, thus were not in error.

**No clear teaching of execution of games at each machine:** Applicant contends that Sitrick in view of Wilson does not provide the substantive difference taught by the instant invention. The substantive difference in this case is the distributed execution of the game, which Examiner believes is fully taught in the Sitrick reference. For further clarification, Sitrick provides that the object of the his invention is to provide a system of a distributed video game apparatus which is capable of exhibiting an interactive, single identity game, that is selectively interlinkable to form a homogeneous single identity game, wherein the game is capable of displaying a composite display resulting from the totality of peer game interactions (1:15-37). Sitrick also provides further clear evidence of the distributed nature of the game system in that, a game designer can have a great deal of flexibility in choosing hardware and software boundaries for functions to be performed in a game system (5:60-68). Sitrick follows this thought by teaching the functions performed by the master controller and user consoles, i.e. the amount of centralized or distributed allocation, is a design variable. Examiner believes this is clear evidence that Sitrick in view of Wilson teaches the distributed game execution to create a complete race wagering game.

**Argument of the references individually:** Applicant provided arguments to lend validity towards prior separate analysis of the combination of references (in paper no. 6) provided in 35 U.S.C. 103 rejection. While the arguments of paper no. 9 are proper in that they attempt to show features that Applicant contends are missing in both references, prior arguments



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of paper no. 6 did not. Prior arguments of paper no. 6 used separate analysis of the references in attempts to show that features were not present. The difference being that the features in question were found in the other reference and the references were not treated as a whole, as provided in a 35 U.S.C. 103 combination.

**Car racing goes counter to betting:** Applicant argues the combination of Sitrick in view of Wilson because of the belief that car racing is not known to have a wagering component, thus would not be obvious to combine. Examiner believes this rejection to be proper and also believes that car and horse race wagering are analogous in terms of betting features. Examiner also contends that car race wagering has been notoriously well known in the art and is displayed as interchangeable with horse and dog race wagering. Examiner has provided US Patent No. 4,494,197 to Troy et al. in the citation of pertinent prior art for evidence detailing interchangeability of car, horse, and dog racing.

**Synchronized starts in racing games is not well known, thus Examiner's rejection was erroneous:** Examiner provided a rejection that explained that it was well within the capabilities of one of ordinary skill to have synchronized starts for certain games, such as race games. Although Applicant contends that this is erroneous, Examiner believes that this feature is a necessity, thus inherent in games involving racing. If machines involved in network racing did not have synchronized game starts, game outcomes would be meaningless. Unsynchronized starts in a network racing game would render the game inoperable, thus it is considered well within the capabilities of one of ordinary skill to have synchronized game starts in networked racing games, because the nature of race games *necessitate* this feature.

**Hindsight used by Examiner to reach conclusion of obviousness:** In response to

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applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Additionally, for reasons given in the above arguments, Examiner believes that the rejections based upon prior art are valid, thus still stand.

#### ***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 4,494,197 to Troy et al. teaches a wagering system that shows car, horse, and dog race wagering as interchangeable.

US Patent No. 5,575,474 to Rossides teaches a wagering system where users can wagering on anything.

US Patent No. 6,050,895 to Luciano, Jr. et al. teaches wagering on normal competition games.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8-6 M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Aaron Enatsky  
November 7, 2003

  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700